

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 14-50650

GREGORY IRBY, and  
ELIZABETH IRBY,

Chapter 13

Judge Thomas J. Tucker

Debtors.

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**ORDER DENYING EX-PARTE MOTION TO WAIVE DEBTOR, GREGORY IRBY'S,  
OBLIGATION [TO] FILE "CERTIFICATION REGARDING DOMESTIC SUPPORT  
OBLIGATIONS"**

This case is before the Court on a motion filed on February 8, 2021, purportedly filed by both Debtors, entitled "Ex-Parte Motion to Waive Debtor, Gregory Irby's, Obligation [to] File 'Certification Regarding Domestic Support Obligations'" (Docket # 116, the "Motion"). The Motion seeks a waiver of the requirement that the Debtor Gregory Irby "file a "Certification Regarding Domestic Support Obligations"" due to the fact that the Debtor "Gregory Irby is now deceased." (Mot. at ¶¶ 3-4.)

The Motion must be denied because it was not filed by or on behalf of anyone with standing to seek the relief sought. It is stated to be a motion by both the Debtors, but that is impossible, since one of the Debtors died before the Motion was filed. And the deceased Debtor's attorney does not have standing or authority to file a motion on behalf of a deceased debtor.

Only a personal representative duly appointed by the probate court under the laws of the State of Michigan may file a motion seeking relief on behalf of the deceased Debtor, Mark K. McCray. *See In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001) (citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) ("[W]hen a debtor dies, the only person who can then appear on the debtor's behalf is the person so named as the official representative of the probate estate of the debtor."); Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that "[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent's personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters"); Mich. Comp. Laws Ann. § 700.3703(3) (stating that "[e]xcept as to a proceeding that does not survive the decedent's death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death").

Accordingly,

IT IS ORDERED that the Motion (Docket # 116) is denied.

**Signed on February 9, 2021**



**/s/ Thomas J. Tucker**

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**Thomas J. Tucker  
United States Bankruptcy Judge**